

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 44

January 25, 1995, 3:57 p.m.
Page S-1518 Temp. Record

UNFUNDED MANDATES/Child-Pregnant-Elderly Exemptions

SUBJECT: Unfunded Mandate Reform Act of 1995 . . . S. 1. Kempthorne motion to table the Boxer amendment No. 202.

ACTION: MOTION TO TABLE AGREED TO, 55-44

SYNOPSIS: Pertinent votes on this legislation include Nos. 15-41, 43, 45, and 47-61.

As reported by the Governmental Affairs Committee and the Budget Committee, S. 1, the Unfunded Mandate Reform Act of 1995, will create 2 majority (51-vote) points of order in the Senate. The first will lie against the consideration of a bill or joint resolution reported by an authorizing committee if it contains mandates and if Congressional Budget Office (CBO) cost estimates on those mandates are unavailable. The second point of order will lie against the consideration of a bill, joint resolution, motion, amendment, or conference report that will cause the total cost of unfunded intergovernmental mandates in the legislation to exceed \$50 million.

The Boxer amendment would exempt from the requirements of this Act any Federal mandates that would provide "for the protection of children under the age of 5, pregnant women, or the frail elderly."

Debate was limited by unanimous consent. Following debate, Senator Kempthorne moved to table the Boxer amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

The prolonged debate and endless stream of amendments to this bill have been somewhat unexpected. One would think that a bill with 62 cosponsors and broad support from State and local governments would be noncontroversial, yet one major change after another has been suggested by Senators who have simultaneously praised the bill. This amendment by the Senator from California proves no exception. She has with one breath said what a wonderful idea it is to let State and local governments run their own affairs without the Federal Government telling them how to spend their money, and then in the next breath has contradicted herself by saying

(See other side)

YEAS (55)			NAYS (44)			NOT VOTING (1)	
Republicans (51 or 98%)		Democrats (4 or 9%)	Republicans (1 or 2%)		Democrats (43 or 91%)	Republicans (1)	Democrats (0)
Abraham	Helms	Baucus	Specter	Akaka	Hollings	Simpson- ^{4AY}	
Ashcroft	Hutchison	Exon		Biden	Inouye		
Bennett	Inhofe	Kerrey		Bingaman	Johnston		
Bond	Jeffords	Nunn		Boxer	Kennedy		
Brown	Kassebaum			Bradley	Kerry		
Burns	Kempthorne			Breaux	Kohl		
Chafee	Kyl			Bryan	Lautenberg		
Coats	Lott			Bumpers	Leahy		
Cochran	Lugar			Byrd	Levin		
Cohen	Mack			Campbell	Lieberman		
Coverdell	McCain			Conrad	Mikulski		
Craig	McConnell			Daschle	Moseley-Braun		
D'Amato	Murkowski			Dodd	Moynihan		
DeWine	Nickles			Dorgan	Murray		
Dole	Packwood			Feingold	Pell		
Domenici	Pressler			Feinstein	Pryor		
Faircloth	Roth			Ford	Reid		
Frist	Santorum			Glenn	Robb		
Gorton	Shelby			Graham	Rockefeller		
Gramm	Smith			Harkin	Sarbanes		
Grams	Snowe			Heflin	Simon		
Grassley	Stevens				Wellstone		
Gregg	Thomas						
Hatch	Thompson						
Hatfield	Thurmond						
	Warner						

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

but not in these particular areas. When it comes to children, pregnant women, and the frail elderly, Uncle Sam knows best. For supporters of the Boxer amendment, every idea that the Federal Government has concerning these groups is good enough to make the States pay for it.

Frankly, it is this attitude that has caused a great deal of harm to everyone in America. Ironically, children have been hit especially hard, because State and local governments provide more services to children than does the Federal Government. When State and local governments are confronted with new Federal unfunded mandates they often have to cut spending on programs for children, like education, to pay for them. Few governors or mayors of either party therefore would agree that what they need to be better able to provide services to children are more unfunded Federal mandates.

The bill before us has a few carefully crafted exemptions for mandates on which there will be no points of order. Unfunded mandates that require obedience to the Constitution obviously should not and will not have a point of order against them, for example. Similarly, laws to prevent racial discrimination should not and will not have to be funded by the Federal Government. These exemptions and the other exemptions in the bill are for carefully defined classes of mandates which are of such a character that in all cases they should be exempt.

The Boxer amendment is neither carefully defined nor is it clear that all mandates that it would cover should be exempt. Congress could determine that everyone over the age of 50 qualifies as elderly, and then demand that States provide free health care for them; similarly, it could decide that all States must pay for free daycare for every child under the age of 5. Under the Boxer amendment, these types of mandates would not be subject to points of order for being unfunded. In all honesty, we imagine there may be many occasions when we will think it is appropriate to impose an unfunded mandate to protect children, pregnant women, or the frail elderly. In such a circumstance, we will be more than willing to join our colleagues, in a simple majority vote, to waive any point of order against the mandate. The bottom line is that the Boxer amendment proposes an exemption that is unneeded and unwise. Therefore, we urge our colleagues to table it.

Those opposing the motion to table contended:

Children, pregnant women, and the frail elderly need and deserve special protection. If States are failing to provide that special protection, the Federal Government should have the right to order them to provide it. These vulnerable groups deserve our protection. They may not have the financial wherewithal to don pinstripe suits and lobby Members in fancy restaurants, but that gives us no right to ignore them. Their needs are very great. According to Carol Browner, the Administrator of the Environmental Protection Agency (EPA), environmental hazards for these three subgroups are often greater than for the general population, and therefore the EPA should be able to impose special unfunded mandates to protect them. It is not fair or right, for example, to suggest that the level of contaminants in a lake may be set at a level that makes the fish safe for everyone to eat but pregnant women. Similarly, lead standards for water should not be set at levels that are safe for everyone but infants. If the EPA determines that higher standards need to be set for these groups, and if it determines that States are not providing these higher standards, it should be able to order the States to spend their own money to achieve the appropriate level of protection. The Boxer amendment has not been offered in any way to gut this bill by starting a string of exemptions. It has been offered with the best of intentions, and we hope that it will be accepted in the same vein.